

September 5, 2013

The Common Council met as the Water Utility Board at 7:0 pm on the above date in the Meeting Room at City Hall Annex with Mayor Tucker presiding and members Jeffries, Fuelling, Hoehn, Curtis and Higgins attending. Others attending were Attorney Higgins; Supt. Gray; Lt. Angel; Chief Dixon; Comm. Dieterle; Judy Heberer; Nancy Sexton; Ed Adams; Larry Williams; Sara Manifold – Mount Vernon Democrat; Lois Gray – Posey County News; and arriving during the meeting, Supt. Givens.

Mayor Tucker called the meeting to order by stating he would like to welcome new member Brian Jeffries to the Council; and then added members were either mailed or hand carried copies of the minutes of their previous meeting and by asking if there were any corrections or additions. He added if not, he entertains a motion to waive their reading and to approve the minutes as presented.

Board member Curtis moved the reading of the minutes be waived and they be approved as presented.

Seconded by Board member Higgins.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

Mayor Tucker requested action on the claims presented.

Board member Fuelling moved the claims presented be allowed for payment. Seconded by Board member Curtis.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

Mayor Tucker stated they will now hear the report of the Water Chairman.

Chairman Curtis stated Supt. Gray indicated work on Mann Street is now done and the pressure is excellent. In the next couple of weeks they will be finishing up the work on Wolflin Street as well.

Supt. Gray added they will begin hydrant flushing in the next couple of weeks as well.

Supt. Givens arrived at the meeting.

Supt. Gray then stated they added two new fire hydrants on Mann Street, each having between 1000-1200 gpm, which is a substantial improvement in fire protection. They also disconnected the service line to the old jail and they cut and abandoned a line on 2nd Street – it was a bad main.

Mayor Tucker asked if there were any questions ?

There were none.

Mayor Tucker asked if the Clerk-Treasurer had any Communications for the Board ?

Clerk-Treasurer Sitzman replied not at this time.

Mayor Tucker asked if there were any Legals ?

There were none.

Mayor Tucker asked if anyone in the Audience wished to address the Board ?

There was no response.

Mayor Tucker asked if there was any Old Business ?

There was none.

Mayor Tucker asked if there was any New Business ?

There was none.

Mayor Tucker stated if there was no further business, he entertains a motion to adjourn.

Board member Curtis moved the meeting be adjourned. Seconded by Board member Jeffries.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously and adjourned the meeting.

John Tucker
Mayor

ATTEST:

Cristi L. Sitzman
Clerk-Treasurer

The Common Council met immediately following the Water Utility Board on the above date in the Meeting Room at City Hall Annex with Mayor Tucker presiding and members Jeffries, Fuelling, Hoehn, Curtis and Higgins attending. Others attending were Attorney Higgins; Supt. Gray; Lt. Angel; Chief Dixon; Comm. Dieterle; Judy Heberer; Nancy Sexton; Ed Adams; Larry Williams; Sara Manifold – Mount Vernon Democrat; Lois Gray – Posey County News; and Supt. Givens.

Mayor Tucker called the meeting to order by stating he would like to welcome new member Brain Jeffries to the Council; and then added members were either mailed or hand carried copies of the minutes of their previous meeting and by asking if there were any corrections or additions. He added if not, he entertains a motion to waive their reading and to approve the minutes as presented.

Councilman Curtis moved the reading of the minutes be waived and they be approved as presented.

Seconded by Councilman Hoehn.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously.

Mayor Tucker stated they will now hear the reports of the Standing Committees.

Street & Light Chairman Hoehn stated he has no report.

Comm. Dieterle stated he has no report.

Mayor Tucker asked if there were any questions ?

There were none.

Police & Dog Chairwoman Higgins stated she has no report.

Lt. Angel stated he has no report.

Mayor Tucker asked if there were any questions ?

There were none.

Fire Chairman Jeffries stated he has no report.

Chief Dixon stated he has no report.

Mayor Tucker asked if there were any questions ?

There were none.

Sewer Chairman Fuelling stated he has no report.

Supt. Givens stated he has no report.

Mayor Tucker asked if there were any questions ?

There were none.

Mayor Tucker stated they have the Financial Report before them and any questions could be directed to Clerk-Treasurer Sitzman.

Mayor Tucker asked if the Clerk-Treasurer had any Communications for the Council ?

Clerk-Treasurer Sitzman replied not at this time.

Mayor Tucker stated they are now ready for the Legal portion of the Agenda.

Attorney Higgins stated the first item is the second reading of the Ordinance Amending the City of Mount Vernon, Indiana Code of Ordinances, Title XI-Business Regulations, Chapter 110-Intoxicating Liquors, Section 110.01-Use of Alcohol on Certain Public Property Prohibited.

Councilwoman Higgins moved the ordinance pass on second reading. Seconded by Councilman Hoehn. Mayor Tucker asked if there was any discussion ?

Councilman Hoehn stated he would like to propose an amendment, prior to passage. He would like to NOT strike out (B), which states: "On a public street or parking lot within 300 feet of a park or recreational facility described in division (A) above"; and add a (C) with wording similar to "or with a written request submitted to the Board of Works or the Mayor". He added they don't need (B) from time to time for certain events. He then stated his concern is someone sitting in the back of their truck and drinking or sitting in front of a park and drinking. He added the Indiana Code talks about being outside of the passenger compartment. He would like to amend this and then have second reading.

He continued by stating with having to get permission from the Board of Works or the Mayor, that still gives the city some control, along with the state laws on open containers. He added this needs to be taken care of prior to River Days and he then stated he has no problem with alcohol, just folks being drunk and disorderly.

Councilwoman Higgins stated this ordinance was originally put in place back in the 1970's because the number of taverns that were located downtown, near the Park and Rec, and because of the number of kids in the area. She added the city would still be covered by all of the state laws concerning alcohol.

Councilman Jeffries asked Councilman Hoehn to which specific state law he is referring, which one ?

Councilman Hoehn replied he is not certain of the number.

Councilman Jeffries asked specifically to what he was referring ?

Councilman Hoehn replied he code on open containers.

Councilman Jeffries asked if he had the code number on that ?

Councilman Hoehn replied no.

Councilman Fuelling stated he likes the idea of adding (C) to the ordinance.

Councilman Hoehn stated he does not want to jeopardize River Days, or any event.

Councilman Cutis stated so there could be, in the future, wine tastings at the riverfront, etc. He wondered if adding (C) would take care of that. If council goes with a (C) would that give them the option to allow alcohol as the city would permit?

Councilman Jeffries added Title 9, in reference to open containers, is the vehicular code.

Councilman Curtis stated they leave intact the idea that the city does not allow alcohol, but continue with the protection they do have with some added flexibility.

Attorney Higgins stated the Park and Rec Department and the Park Board wanted guidelines for this – festival rules and regulations, per se. In that event, there would need to be insurance guidelines, licensing, etc., (C) will not get them to be able to allow festivals.

Councilman Curtis asked if the way the ordinance is written now does?

Councilman Jeffries added there is distinction.

Attorney Higgins relied neither one will get them there.

Councilwoman Higgins asked if adding (C) will help tonight?

Councilman Hoehn stated there needs to be definition between city regulations and River Days. He added actually (A) or (B) could be suspended and it would still protect what they have and expand on it.

Attorney Higgins stated they also need to keep in mind the opening of The Landing. She added there may be some outdoor seating, and that would be in 300 feet of the park.

Councilman Hoehn replied that a restaurant couldn't put seating on public property, and the city can not regulate private property.

Attorney Higgins added it could be in the platted public way. She added if they added that permission could be given up on written request made to the Board of Works, what about the Park Board, as they regulate the parks.

Councilwoman Higgins suggested they get permission from both boards.

Councilman Curtis added it is a city street, and therefore some city agency should have a say in it, and as such, the Board of Works makes sense since folks come to that body anyway to request street closures, etc. He added he also agrees with Attorney Higgins that the Park Board would have jurisdiction.

Attorney Higgins stated adding (C) would be affirmative action, but again, there would need to be proof of insurance, etc.

Councilman Hoehn stated he would want that if they struck (B) anyway for liability closure. He added he believes they are complicating things and they really need to just get together, be reasonable, and open it up to specific things. If a request is made to have alcohol, questions can be asked at that time.

Councilwoman Higgins stated they can strike (B) and get together with the Park & Rec and do a new ordinance. She added this needs to get in gear for now, as a new one will take time, and they don't have that right now. She added they need to see how the Park wants to proceed, but strike (B) for now, making that a permanent change.

Councilman Curtis stated he wants to accomplish what Councilwoman Higgins wants to accomplish and none of the Council is against River Days, etc. but what do they want to open it up to? He added he does see Councilwoman Higgins' point.

Councilman Hoehn asked how they get Smoke on the Ohio done? What do they need to do on the time frame they have?

Councilman Jeffries added they also need to try to minimize the impact on future development down there, thought they do want and need some control.

Attorney Higgins asked if Council feels comfortable with the state laws along with this ordinance?

Councilman Hoehn stated his concern again is someone doesn't have to be intoxicated when they come off the river, etc but they can still be drinking in their boat, truck, etc.

Councilman Jeffries asked how often the police department uses the ordinance when making a citation?

Lt. Angel replied they use the state law.

Attorney Higgins again asked if Council is comfortable with those protections and the enforcement by all of the law enforcement agencies they have at their disposal? There will still be no alcohol in the park.

Councilman Hoehn stated there seems to be a loophole – "out of the passenger compartment".

Councilman Jeffries replied he does not see that.

Councilman Hoehn added they can be in the back of a pick up and unless they are intoxicated it is not an issue.

Councilman Curtis stated there is not a whole lot of difference in enforcement – parks versus in town.

Councilman Jeffries asked how long 300' is, one city block maybe ? He added it would be interesting to map that out and see the actual graphics involved.

Councilwoman Higgins stated the River Days Committee knew of this ordinance, but now the area for River Days has changed, it is now a park.

Councilman Hoehn stated they could be potentially opening themselves up to other things. Someone is out in a boat, they pull up into the park and continue to drink until they are loud and obnoxious ? Why open it up, if there is no problem, they can readdress this later.

Councilman Jeffries asked what the fine is for violation ?

Attorney Higgins replied up to \$2,500.00.

Councilman Jeffries replied that is significant.

Councilman Curtis stated he does not believe they have had any major problems at the riverfront for many years with public intoxication. He doubts they will have that now as this currently has everyone's attention. He asked if there are going to ask that the police department ticket everyone that comes in off the river with a beer ?

Councilman Jeffries replied that is exactly the point.

Councilman Curtis stated he is not criticizing.

Councilman Jeffries stated he feels the state law is a much bigger hammer.

Attorney Higgins suggested they don't change anything and check first before they make any changes.

They need to be sure that whatever they do complies with the ABC laws as well. Leave the protection in, and don't change the ordinance as it is presented. If they want a waiver, fine, but they need to check all of this out first.

Mayor Tucker stated agreed and added they also need to check with the Park on what their procedures and forms are for people wanting to use the parks.

Attorney Higgins added in some cases there may need to be a server, a licensed bartender, etc. if they are allowed to serve alcohol.

Councilman Fuelling stated they leave in (A) and (B) and expand on a (C).

Attorney Higgins replied they can do that if that is what they want.

Councilman Curtis questioned if they had time to do that as River Days is next weekend ?

Attorney Higgins replied not tonight.

Councilman Fuelling stated he likes that idea though.

Councilman Hoehn asked if they could pass the current ordinance for 60 days and reverse it back ?

Councilwoman Higgins questioned removing (B) then.

Councilman Hoehn stated that's the fire drill here. Smoke on the Ohio is coming up.

Councilman Curtis stated he has no problem with (C) - for 60 days and that way this won't get left behind somewhere, they will have to address it again.

Councilman Hoehn suggested they strike (B) for a period not to exceed 60 days.

Attorney Higgins suggested that language actually be added to Section III – This Ordinance shall be in full force and effect for a period not to exceed 60 days. Then it reverts back to the original.

Councilman Hoehn moved the above language be added, as an amendment, per Attorney Higgins.

Seconded by Councilman Curtis.

Mayor Tucker asked if there was any discussion ?

Councilman Jeffries asked if they are just suspending (B) for a period of 60 days ?

Council agreed.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Councilwoman Higgins moved the ordinance pass on second reading, with the amendment to Section III adding “.....after 60 days section (B) reverts back to original wording. Seconded by Councilman Fuelling.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Councilman Hoehn moved the rules be suspended. Seconded by Councilwoman Higgins.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Councilman Hoehn moved the ordinance pass on final reading. Seconded b Councilman Curtis.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Clerk-Treasurer Sitzman added it will be numbered 13-19.

Attorney Higgins stated the next item is a Public Hearing for the Building Corporation Lease of Police and Fire Station.

Mayor Tucker opened the public hearing and asked if anyone in the Audience wished to address the Council relative to this issue ?

There was no response.

Mayor Tucker then closed the public hearing at 7:45 pm.

Attorney Higgins stated the item which now follows is a Resolution of the Common Council of the City of Mount Vernon, Indiana, Regarding the Execution of a Lease Relating to the Police and Fire Station Project, giving permission to enter into the lease. She added the payment will be made via \$20,000 from CCDF and balance from EDIT.

Councilman Curtis moved the Resolution be approved. Seconded by Councilman Jeffries.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Clerk-Treasurer Sitzman added it will be numbered 13-20.

Attorney Higgins stated this Resolution keeps them on track for the November closing.

Attorney Higgins stated the next item is an Ordinance of Additional Appropriations in the EDIT Fund. She stated the ordinance comes as a request from several departments including the Street Department for paving; the Redevelopment Commission for the police and fire station; the multi-purpose building at the riverfront and the new phone system for city hall. She added it will also have to be published and after publication a public hearing will be held.

Councilman Curtis moved the ordinance pass on first reading. Seconded by Councilman Hoehn.

Mayor Tucker asked if there was any discussion ?

There was none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Attorney Higgins stated the final item is first reading of an Ordinance Amending City of Mt. Vernon, IN Code of Ordinances, Title IX-General Regulations, Chapter 98-Weeds, Sections 98.03 and 98.04. She stated this ordinance removes the enforcement (measuring of weeds, mailings, etc.) from the Clerk-Treasurer and gives it to the Code Enforcement Officer, and adds under 98.03 (C) a (4) for fourth fine.

Councilwoman Higgins moved the ordinance pass on first reading. Seconded by Councilman Fuelling.

Mayor Tucker asked if there was any discussion ?

Councilman Hoehn questioned 98.04 (B) – it sounds like it all goes back on the owner and that the occupant is putting the owner in a bind by not mowing.

Attorney Higgins replied no, that the owner is notified in the very beginning, but that is a good point.

Mayor Tucker asked if there were any other questions ?

There were none.

Mayor Tucker requested a roll call vote.

Roll was called by the Clerk-Treasurer with Council voting as follows:

Jeffries – yes; Fuelling – yes; Hoehn – yes;

Curtis – yes; Higgins – yes.

Mayor Tucker stated the motion carried unanimously.

Mayor Tucker asked if anyone in the Audience wished to address the Council /

Larry Williams stated he would like to thank everyone involved with River Days especially the committee. People have no idea how much work it takes to put this on. He would also like to thank the city for their help in letting them be under the city insurance umbrella. They now have their own federal ID and they are 501(C) 4 and as of December 31, 2013, they will be totally on their own. This event is going to be around for a long time and they will make money this year. They are here to stay and again, thanks to everyone on the committee, the Board of Works, everyone.

Mayor Tucker asked if anyone else in the Audience wished to address the Council ?

There was no response.

Mayor Tucker stated they have several items under Old Business, the first being an up date on the issues the w 9th Street residents brought up at the last meeting.

Councilman Curtis stated he and Chief Beloit and Councilman Hoehn met with about eight residents last week. They discussed the options, heard complaints and made some recommendations. He added they will also be having a meeting with Prosecutor Clowers coming up on possible other actions. He stated he has had los of contact with them since and they have had other additional issues come up as well. This is an ongoing issue. He will report back as need be.

Mayor Tucker stated the next update is concerning the drug testing policy. He added the hold up is that the Council requested samples from other places, and the city's is already more stringent than the samples they have received.

Attorney Higgins agreed and added they have also acquired additional samples that she and Mrs. Willis are reviewing. There will be two separate policies – an INDOT and a NON INDOT, which will encompass the safety sensitive positions. She then stated they can also include others in that as well but she needs some direction. Do they want baseline testing for entire city departments or city wide; and do they want to broadly define what a safety sensitive position is. Again, she just needs direction.

Councilman Hoehn stated he feels they need to point to the policy more and away from the ordinance – adjust the policy. Baseline testing could fall under that category, but he added he feels safety sensitive is vague, he is hesitant on that point. He added he feels “city employee” period, should be incorporated.

Let the policy be the most controlling document.

Attorney Higgins asked for direction.

Councilman Curtis stated he is comfortable with non safety sensitive area and the Inclusive, the better, across the board. He added those that he has talked to that do not currently get tested also agree.

Councilman Fuelling agreed.

Councilman Jeffries asked DOT vs NON DOT test ?

Council agreed.

Attorney Higgins stated she will draft the ordinance accordingly.

Mayor Tucker stated the last item under Old Business is an update on the results of the trash study.

Councilman Hoehn stated he talked with Comm. Dieterle and also got some input from Councilman Fuelling. The looked at Umbaugh's numbers and they don't agree with them 100%, they are a little high on some things, but he is uncertain how much. He indicates Umbaugh is looking at raising the trash rate to the \$18.00/month range. The Council all know the trash rate needs to be increased, but he recommends they move it to \$10.00/month by the first of the year. He just received a breakdown this evening on the 2750 trash customers the city has and he would like to take a look some of the business customers to see about the heavy users. He then stated he has asked Comm. Dieterle starting January 2014 to monitor the line items in the Sanitation budget, with the intent to get the city to do this in-house to get a comparable rate in the 13.00 - \$14.00/month range. He stated they can watch the line items for five months or so and then look at the situation, come May or June time frame to see if the service is customer driven vs city driven. Again, look at possibly \$12.00 – 14.00/month and see which pocket it comes out of and plan accordingly.

Councilman Hoehn again stated he feels they should move the rate to \$10.00/month the first of the year, which is \$1.40 increase.

Councilman Fuelling stated when they did the last increase they said they would increase the rate periodically, and they have not done that, and here they are. If they had done that, they would be paying around \$10.90 now, and here they are a year later looking at \$10.00.

Councilman Curtis stated he has no objection, it sounds reasonable.

Councilman Jeffries stated they need to stay focused on this and phase things in incrementally.

Councilman Hoehn agreed and added they are looking at a three to five year phase-in instead of a cold, hard slap.

Mayor Tucker asked if there was any New Business ?

There was none.

Mayor Tucker stated they will now hear the reports of the Districts.

1st District Councilman Jeffries stated he has no report.

2nd District Councilman Fuelling stated he has no report.

3rd District Councilman Hoehn stated he has no report.

4th District Councilman Curtis stated he has no report.

Councilwoman-at-Large Higgins stated kudos to Friends of Park for the banners at the riverfront. They may also be getting some seasonal banners as well.

Councilman Fuelling stated three graduation classes have also donated money for the riverfront. He also would like to thank the Street Department for the grand work they have done down there, as well as the Park & Rec.

Mayor Tucker stated if there was no further business, he entertains a motion to adjourn.

Councilman Curtis moved the meeting be adjourned. Seconded by Councilman Fuelling.

Mayor Tucker stated all those in favor of the motion should signify in the affirmative; and following the vote, he reported the motion carried unanimously and adjourned the meeting.

John Tucker, Mayor

ATTEST:

Cristi L. Sitzman
Clerk-Treasurer